



Tarter Krinsky & Drogin LLP
1350 Broadway
New York, NY 10018
P 212.216.8000
F 212.216.8001
www.tarterkrinsky.com

Jonathan E. Temchin, Partner
212.216.1139
jtemchin@tarterkrinsky.com

June 8, 2023

BY ECF

Honorable Paul A. Engelmayer, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 2201
New York, New York 10007

Re: *Waterscape Resort LLC et al. v. 70 West 45th Street Holding LLC et al.*
Case No.: 1:21-cv-07350

Dear Judge Engelmayer:

This office represents Defendants 70 West 45th Street Holding LLC and Waterscape Resort II, LLC (collectively, “Defendants”) in the above-referenced matter. We write jointly with counsel for Plaintiffs Waterscape Resort LLC, Assa Realty LLC and Gemstone Group LLC (collectively, “Plaintiffs”) to request the Court’s guidance on an issue that has come to the parties’ attention.

Following the Court’s order of June 5, 2023 (ECF Dkt. No. 75) addressing Defendants’ request for a discovery conference, the parties have been working together on scheduling party depositions on or prior to the June 12 fact-discovery end date. Yesterday, Plaintiffs’ counsel advised that one of his witnesses would be available on June 12. Today, I learned that Defendants’ primary witness, Hanwen Chang, is in China tending to a personal matter and will not be returning to the United States until September 2023. We have also been advised that participation in depositions for use in foreign legal proceedings is illegal in China and Mr. Chang may be subjecting himself to criminal penalties if he appears for a remote deposition. He has unique knowledge necessary to the defense and the only person who is familiar with relevant events within Defendants’ control. In addition, Plaintiff’s counsel has advised that Plaintiffs are not comfortable producing a witness for deposition while the matter of Mr. Chang’s deposition remains unresolved.

In light of the foregoing, we respectfully request that the Court direct that Mr. Chang be deposed promptly upon his return to the United States in September 2023.

Honorable Paul A. Engelmayer, U.S.D.J.
June 8, 2023
Page 2 of 2

In closing, we thank the Court for its consideration in this matter.

Respectfully submitted,

/s/Jonathan E. Temchin

Jonathan E. Temchin

cc: All Counsel of Record (BY ECF)

Granted. The Court permits the limited reopening of discovery for the deposition of Mr. Chang and the referenced plaintiffs' witness in September 2023. All other deadlines remain in place. SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge
June 9, 2023